

DEPARTMENT OF HEALTH SERVICES

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TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 97-41

**SETTLEMENT IN THE CASE OF PRINCIPE V. BELSHÉ - REGARDING RETROACTIVE
SPENDDOWN OF EXCESS PROPERTY ON MEDICAL EXPENSES**

Ref: Medi-Cal Eligibility Procedures Manual, Section 9L

Overview

The purpose of this letter is to instruct counties to implement effective with applications received on or after February 1, 1998, the following provision which is part of the settlement of Principe v. Belshé. This provision, as described in detail below, will allow individuals to spenddown excess property retroactively. Individuals will be eligible to retroactively spend excess property on **qualified medical expenses** to establish eligibility for Medi-Cal beginning with the month of application. Once the qualified medical expenses are paid, the county eligibility worker **shall exempt** the same otherwise excess property (and its conversion to cash for payment) which was eventually spent on the qualified medical expenses. The exemption shall be applied during a month (or months) beginning with the month of application in which the otherwise excess property existed for the entire month and grant eligibility for that month as otherwise eligible.

Very Few Individuals Affected

Principe v. Belshé will affect very few people. Principe v. Belshé does not impact those who have excess property, are able, and do reduce that excess property during the same month, or those who do not have the legal capacity to do so.

- Those individuals who are able to reduce their excess property do so because in doing so, they may reduce their excess property in any manner they see fit and as long as they are not institutionalized, there is no penalty for making a transfer(s) without adequate consideration.
- In addition, current policy allows an individual's property to be considered unavailable under All County Welfare Directors Letter (ACWDL) 90-01, Section 50402 whenever the individual is unconscious, comatose or incompetent at any time during the month since that individual would not have legal capacity to liquidate the property. **Remember: counties must continue to consider availability first before including property in the property reserve.**

Therefore, Principe v. Belshé will affect only those individuals who, although they were not unconscious, incompetent or comatose, were unable **for whatever reason** to reduce their excess property during the month of application or some later month during the application process.

Definitions

Qualified Medical Expenses - Qualified medical expenses are bills that are incurred in any month by:

- the individual or spouse,
- any member of the individual's Medi-Cal Family Budget Unit (MFBU), or
- the individual's children who are not members of the individual's MFBU but who are living with the individual,

That are unpaid in the same month where there is also otherwise excess property for the entire month beginning with the month of application.

NOTE: The same medical expenses cannot be applied under both Principe v. Belshé and used to meet the share of cost or applied to share of cost under Hunt v. Kizer.

Principle Property Exemption - The Principe property exemption is an exemption which is applied to otherwise excess property after that excess property has been spent in a later month on qualified medical expenses. The otherwise excess property must have existed for an entire month or months beginning with the month of application.

- The otherwise excess property may have to be converted to cash before it may be spent on qualified medical expenses. In those cases, the cash conversion receives the same exemption for the period of time before it is applied to the qualified medical expenses.
- Once steps are taken to liquidate property, it is to be considered unavailable in accordance with ACWDL 90-01, Section 50402 and it may be possible to establish eligibility for the current month and on-going at that point if otherwise eligible.
- The exemption does not exceed the amount of otherwise excess property. If an individual spent property which was not excess on his/her medical expenses, he/she may be entitled to reimbursement from a Medi-Cal provider if Medi-Cal eligibility is eventually established for the month in which the service was rendered.

Principe Month - A month or months beginning with the month of application during which the Principe property exemption has been allowed. The exemption may not be applied to any of the three months immediately preceding the month of application.

The Principe v. Belshé provision:

- applies to individuals who have otherwise excess property for the entire month but who are otherwise eligible,
- limits the month in which the Principe property exemption may occur to no earlier than the month of application (i.e., it may not be one of the three months prior to the month of application),
- allows these individuals to spenddown retroactively on qualified medical expenses by applying a Principe property exemption in a month where there is otherwise excess property,
 - only when payment of those qualifying medical expenses with the excess property occurs in a later month, and
 - verification of payment is provided to the county.

NOTE: The requirements listed above have to be met before eligibility is granted for the month throughout which the otherwise excess property existed.

Similar Policy Already in Place for Spenddown Occurring During the Month

Medi-Cal currently has a process in place that is used whenever an applicant or beneficiary reduces excess property in a month by paying, in that same month, current or future medical expenses in order to establish eligibility in that month (Medi-Cal Eligibility Procedures Manual, Section 9L, "Excess Property Applied to Medical Bills"). Such medical expenses are not covered by Medi-Cal. To ensure this, the individual provides verification of payment and the county completes a form (MC 174). This form lists the medical expenses, the provider who was paid and contains a warning that it is against State law for the provider to bill Medi-Cal or to reimburse the beneficiary for the expenses listed, since the payment was made by the applicant/beneficiary in order to establish eligibility. The form is in triplicate. One copy is sent to the provider, one is provided to the applicant/beneficiary and the third copy is retained in the case record to provide an audit trail.

Principe v. Belshé is to be handled in the same way that we currently treat spenddown of excess property which occurs in the month on medical expenses. Counties shall follow the Medi-Cal Eligibility Procedures Manual, Section 9L, "Excess Property Applied to Medical Bills" to ensure that providers do not bill Medi-Cal for these services and that individuals do not receive reimbursement of payments for these medical expenses.

A **typical case scenario** would involve a single individual who is hospitalized during the last part of a month, who has no one else to handle his/her affairs and who submits an application for Medi-Cal to an outstationed eligibility worker during the same month. The individual owns excess property for the entire month of application and is unable to spenddown before the end of the month. The individual is not unconscious, comatose or incompetent at any time during the month so the property cannot be considered unavailable under ACWDL No. 90-01, Section 50402. However, assume the individual was able to spenddown the excess property on the medical expenses before the end of the following month (in other cases it may take even longer before the individual is able to complete the spenddown of the excess property on medical expenses). When considering this person's application and applying Principe v. Belshé for the month of application, the county would exempt only the otherwise excess property during the month of application which **was spent** before the end of the following month on the qualified medical expenses.

If a number of months are included in the application process (the month of application to the month which spenddown on medical expenses is completed), then the county would exempt the total amount of otherwise excess property which was eventually spent on medical expenses from the property reserve in each intervening month. For example, if an individual was hospitalized during January and submitted a Medi-Cal application in the same month, but did not complete the spend down of excess property on medical bills until May, then the county would add the total of the amount of medical bills paid with otherwise excess property during the months of January through May. That total amount would be exempt and not included in the property reserve beginning in January and the exemption would be applicable through April. The individual would be within the property limits at sometime during the month of May, although eligibility for Medi-Cal would be established retroactive to January.

NOTE: Just as a reminder, Principe v. Belshé does not need to apply to Medi-Cal beneficiaries who have received Medi-Cal for some time and who are suddenly found to have excess property during an entire month resulting in an overpayment. Counties shall continue to follow the current overpayment process for Medi-Cal beneficiaries who have been found to be ineligible due to excess property for a month where eligibility was already granted. The amount of medical bills paid on behalf of the Medi-Cal beneficiary is determined and the amount of the overpayment is whichever is less, the amount of the excess property or the amount of medical bills paid in that month. If the full amount of excess property is the lesser amount, then the

beneficiary pays the excess property back to the Department for their medical expenses. This is essentially the same as the Principe provision.

Examples

The following examples are similar to those currently contained in Procedures Section 9L but restructured here to demonstrate how Principe v. Belshé is to be applied.

Example 1: A single father of two children went into the hospital and incurred \$10,000 worth of medical bills in that month. An outstationed hospital eligibility worker took his application for Medi-Cal during the month of admission, advised him of the appropriate Medi-Cal property limit and options for spenddown including the Principe v. Belshé provision. He was not discharged from the hospital until the month following the month of admission. He had \$5,000 in a savings account. He withdrew his money and paid part of his hospital bill in that second month. During a subsequent interview he states that he was in the hospital in the month of application and provides verification that the total bill was \$10,000. He also states that he paid \$5,000 of the bill with the money from his savings account. In addition to the \$5,000 savings account, he had a \$10,000 life insurance policy with a cash value of \$300 and a checking account with \$500, for a total of \$5800 of nonexempt property in the month of application.

The property reserve limit is \$3,150 for a Medi-Cal Family Budget Unit (MFBU) of three. The family was over the appropriate property limit for the entire month of application, however, is under the appropriate property limit by the end of the second month. The county must determine what portion of the \$5,000 spent on medical expenses represented otherwise excess property.

Property in the Month of Application:	\$5,000 Savings
	<u>800</u> Cash Surrender Value & Checking
	\$5,800 Total
Property Limit	<u>- 3150</u>
Otherwise Excess Property	\$2,650 Amount Included On MC 174
Amount Spent On Medical Bills	<u>- 5,000</u>
Excess Property Remaining	0
Amount Spent on Medical Bills	\$5,000
Amount of Principe Exemption	<u>\$2,650</u>
Amount That May Be Reimbursed or Used To Meet Share of Cost	\$2,350 Do Not List On MC 174

Therefore, of the \$5,000 this person paid toward his medical expenses, only \$2,650 was otherwise excess property which may not be reimbursed to the person. Under Principe, the county must exempt \$2,650 of the savings account for the month of application. If the person is otherwise eligible for Medi-Cal in the month of application, the county should complete the MC 174 informing the hospital that Medi-Cal is not liable for \$2,650 of the \$10,000 bill. If the family has no share of cost, the hospital must bill Medi-Cal for the services provided in excess of the \$2,650 which was paid by the beneficiary to establish eligibility. The hospital must reimburse \$2,350 (\$5,000-\$2,650) to the beneficiary once Medi-Cal pays the claim.

NOTE: None of the \$2,650 in medical expenses paid with otherwise excess property in order to establish eligibility in the example above could have been used to meet the applicant's share of cost if he had one or applied to the share of cost under Hunt v. Kizer.

Example 2: A single parent with one child applies for Medi-Cal in the middle of a month because his/her child was injured and incurred medical expenses amounting to \$800. Assume no income was, or will be, received in that month. The county provided the MC 007 but the parent did not complete spenddown during the month of application. This is a two person MFBU so the property limit is \$3,000.

During the face-to-face interview which occurs during the second month, the parent provides verification which indicates he/she had \$4,000 in a checking account during the month of application. At the time of the interview, the verification shows a balance of only \$2,400. When asked what he/she spent the excess property on, the parent says that during the month of application the rent was \$600, utilities were \$100 and groceries amounted to another \$100. In the second month he/she paid the medical bill of \$800. The property reserve limit is \$3,000; the nonexempt property is \$2,400. The family meets property limits in the second month. The county must determine whether there is excess property in the month of application and what portion of the \$800 paid on the medical bill was paid with excess property that existed in the month of application.

Property in the Month of Application	\$4,000	Checking
	- 600	Rent
	100	Utilities
	<u>100</u>	Groceries
	\$3,200	Total
Property Limit	<u>\$3,000</u>	
Otherwise Excess Property	\$ 200	Amount Included On MC 174
Amount Spent On Medical Bills	<u>\$ 800</u>	
Excess Property Remaining	0	

Amount Spent On Medical Bills	\$ 800
Principe Exemption	<u>\$ 200</u>
Amount That May Be Reimbursed or Used To Meet Share of Cost	\$ 600 Do Not List On MC 174

Therefore, of the \$800 paid toward the medical bill, only \$200 was excess property. In this case the county must exempt \$200 of the checking account during the month of application and grant the case as otherwise eligible. The MC 174 must be completed indicating that the beneficiary is liable for only \$200 of the \$800 bill. The hospital must bill Medi-Cal for the services in excess of \$200. The beneficiary may be reimbursed \$600 once Medi-Cal pays the claim or if the beneficiary had no income and had a share of cost some of the \$600 could be used to meet the share of cost.

(Example 3 was not restructured because it is no longer applicable.)

No Exemption to Establish Eligibility for Any of the Three Months Prior to Application Month

Principe v. Belshé has not changed State law. State law does not allow an individual to establish eligibility in any of the three months prior to the month of application by reduction of excess property (Medi-Cal still will not pay those bills). However, an exemption of otherwise excess property will be allowed as far back as the month of application, in an amount up to the amount of the qualified medical expenses. The applicant shall, in fact, be required to spend that excess property on the qualified medical expenses and provide verification of those payments **before** Medi-Cal eligibility may be established for the month or months the otherwise excess property existed.

Action Items

Counties shall implement the Principe provisions as instructed in this letter effective with applications dated on or after February 1, 1998.

- ✓ Counties must inform applicants during the face-to-face (and/or at screening if the county has a screening process) of the Principe v. elshé provision as a means to establish eligibility for a month (beginning with the month of application) where Medi-Cal is being requested whether or not there appears to be excess property. The eligibility worker shall provide the individual with the appropriate property limit and paraphrase the following information:

If you have property which exceeds the property limit for an entire month for which Medi-Cal is requested, you may still be able to receive Medi-Cal benefits for that month or months if you are otherwise eligible and you reduce your excess property by paying qualified medical expenses. Qualified medical expenses are bills that are incurred in any month by you, your spouse or any member of your Medi-Cal Family Budget Unit (MFBU), or your children who are living with you but who are not members of your MFBU. These are bills which were unpaid in the same month where there was also excess property for the entire month beginning with the month of application. You may not establish eligibility for Medi-Cal in this way for any of the three months immediately preceding the month of application.

- ✓ Counties must apply the Principe property exemption to whichever is the most beneficial or whichever the family chooses; the MFBU or MBU(s) if Sneede applies.
- ✓ Counties must complete eligibility determinations within the 45 and 60-day time limits contained in Section 50177 and send a denial based upon excess property. If the individual provides verification at a later date (up to three years from the date of the Notice of Action denying benefits) that excess property was spent on qualified medical expenses, the county must rescind the denial if the individual is otherwise eligible. In accordance with Title 22, California Code of Regulations, Section 50746, in those cases where billing may occur more than one year beyond the date of service, counties shall complete and send a Letter of Authorization (MC180) to the individual following the process contained in Medi-Cal Eligibility Manual, Procedures Section 14E . Counties shall check the box indicating that eligibility must be granted as a result of a court order.
- ✓ **All notices of action denying eligibility based upon excess property must contain the following statement:**

“IMPORTANT INFORMATION IF THIS NOTICE IS A DENIAL BECAUSE OF EXCESS PROPERTY AND YOU HAVE UNPAID MEDI-CAL BILLS: The MC 007 tells you about how this denial will be stopped if you use all of your excess property by paying medical bills that you owed during the month when you applied for Medi-Cal or after. This will not work if you wait more than three years. Ask your eligibility worker for an MC 007.”
- ✓ Once the county and the applicant have completed the MC 174, the county shall determine with the applicant whether any of the remaining medical bills paid by the applicant are to be applied to shares of cost for months during the application process. If

not, or if only some of the remaining medical bills will be applied to the shares of cost, then the county shall include a statement about possible reimbursement from the provider on the Notice of Action approving benefits. That statement shall state that

“IMPORTANT INFORMATION ABOUT GETTING REFUNDS FROM YOUR PROVIDER: State law says that your provider has to give you back whatever you paid for a medical service if that provider gets money from Medi-Cal for the same service. Your provider can not give you money back if you paid a medical bill with excess property to get below the property limit or if the money was part of your share of cost. Your MC 174 tells you about refunds. If you need another copy of your MC 174, ask your eligibility worker.”

Materials To Be Revised By Medi-Cal Eligibility Branch

- The MC Information Notice 007 (“Medi-Cal General Property Limitations for All Medi-Cal Applicants”) is currently being revised and will include a short discussion of the Principe v. Belshé option for spending down excess property in a later month to establish eligibility for a month which is no earlier than the month of application.
- The Medi-Cal Eligibility Procedures Section 9L, “Excess Property Applied to Medical Bills” (including MC 174 and Notice of Action language) will be revised to reflect the Principe v. Belshé provision.
- Title 22, California Code of Regulations, Article 9 will be amended to reflect the Principe v. Belshé property exemption.

If you have any questions on this issue, please call Sharyl Shanen-Raya at (916) 657-2942 or Kathy Harwell at (916) 657-0146.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch